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Counteraction to the Transnational Organized Crime by Law-Enforcement: Prospective Approaches to Enhancing Legal Regulation in Certain Areas

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Abstract. The purpose of the article is to highlight promising areas for optimizing the legal regulation of counteraction to the activities of transnational organized crime groups, which are capable of causing damage to critical infrastructure facilities, by the Security Service of Ukraine. The following methods are used in the research: dogmatic, analytical, content analysis, monographic, logical and normative, legal modelling. It is emphasized that the relevance of optimizing this issue is emphasized in a number of the NSDC decisions. The proposals of scientists on amendments and additions to the legislation regarding the participation of the Security Service of Ukraine in ensuring the security of critical infrastructure are considered. It is proved that the Security Service of Ukraine operates in accordance with the law adopted in 1992, which has long ceased to meet the requirements of the time; in this regard, the relevant draft law proposing improvements to the activities of the Security Service of Ukraine, are studied. Promising directions for optimizing the legal regulation of the Security Service of Ukraine's counteraction to the activities of transnational organized criminal groups to the detriment of critical infrastructure facilities are proposed.

1. INTRODUCTION

The key to effective counteraction to transnational organized crime and other phenomena accompanying it and contributing to its development is stable and systematic legal regulation, which must correspond to modern socio-political and socio-economic realities, as well as international practices. The construction of effective and efficient measures to counter this type of crime requires a deep analysis of the current legislation rules, their careful assessment and structuring. Clear understanding of the norms of legal regulation in the field of counteraction to transnational organized crime will allow determining the main areas of its improvement, and, as a result, significantly enhance the efficiency of law enforcement agencies.

The activities of the Security Service of Ukraine, like any state and government activity, require proper legal regulation, which is ensured by a system of relevant regulatory and legal provisions. Given the dynamic changes in public life and the recent challenges caused by the pandemic, the full-scale invasion of the Russian Federation, and state and political processes, the legislation governing such activities must constantly be updated and improved towards its adaptation to social processes and international standards.

In this regard, it is extremely important to ensure the security of critical infrastructure from unlawful encroachments by criminal entities to improve legal instruments regulating the activities of the Security Service of Ukraine in combating transnational organized crime, in particular, the rules determining the organizational and legal foundations of such activities.

Consequently, the aim of the Article is to highlight promising areas of optimizing legal regulation of the counteraction to the activities of transnational organized criminal groups to the detriment of critical infrastructure facilities by the Security Service of Ukraine.

2. LITERATURE REVIEW

About half a decade ago, when the critical infrastructures that provide essential services (transportation, electricity, drinking water, medical and digital service) were built, threats to them, such as terrorism and organized crime were almost non-existent; but nowadays globalization has led to the emergence of various negative phenomena, including terrorism and organized crime, which can fundamentally affect their functioning (Buță, 2024). The situation in Ukraine in this regard is currently worse than in the global arena in general: negative global trends towards increasing threats of a terrorist nature, enhancing the number and complexity of cyber attacks, as well as the armed aggression of the Russian Federation have led to the actualization of the issue of protecting systems, facilities and resources that are critical to the functioning of society, socio-economic development of the State and national security (Gerasymenko 2024).

Threat vectors for critical infrastructure describe the ways in which an attacker can cause damage to it or indicate internal vulnerabilities due to its age that increase the risk of disruption. This includes aspects such as identifying targets and identifying attackers. Since infrastructure includes a variety of systems, physical and virtual assets, and components (people, facilities, information, processes, etc.), it represents a wide field of vulnerable targets for various types of threats that are studied by both those who protect it and those who plan an attack (Bridget R. Kane et al., 2024). The term “threats to critical infrastructure facilities related to the activities of transnational organized criminal groups” is interpreted as existing and potentially possible phenomena and factors arising in the process of activities of transnational organized criminal groups, which are capable of hindering the stable

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operation of critical infrastructure facilities, lead to damage both to the object itself and to the State as a whole (Khoronovskyi et al., 2024).

In recent years we have witnessed an increase in organised crime networks considering critical national infrastructure as a means of use and mis-use of convenient, publicly available legitimate infrastructures to their benefit. Sectors of critical national infrastructure such as transportation (airports, ports, railway and road transport); the financial sector, telecommunications, government facilities (e-government), and security are becoming very attractive for local and international criminal groups (Kolatchev & Kolesnikova, 2024).

The importance of resilience of a national critical infrastructure was recognized few decades ago and in last few years many countries developed a range of legislation that have helped them establish reliable state critical infrastructure protection (CIP) system. The need to grant critical infrastructure resilience was emphasized by modern threats that were labeled as “hybrid warfare” (Horbulin, 2017).

At the same time, most of the attention has been placed on threats stemming from natural events (earthquakes or hurricanes) or, more recently, terrorist attacks. Little has been said, however, about the threat to critical infrastructure from organised crime groups and their operations, the best-known of which is interfering in the provision of cyber-dependent services (Betti, 2019).

The starting point for the development of a new governmental policy on CIP became development of the Green Paper (GP) on CIP. The final version of the GP was presented by the National Institute for Strategic Studies in October 2015 and reflected understanding of the importance of CI stable functionality for national security (The National Institute for Strategic Studies, 2015)

The preparation and publication of “green papers” is a common practice for stimulating and organizing professional discussions on current security problems and ways to solve them both at the national and international levels. As a rule, the publication of a “green paper” on a certain issue precedes the next stage – the development and publication of an official document, which formulates the foundations of state policy aimed at solving the outlined problem (Biriukov et al., 2015).

The planned pace of the «Green Paper» development and practical implementation of its provisions were accelerated due to «hybrid war» against Ukraine. The «Green Paper» project, starting as scientific research activity, was transformed into practical task to launch new security policy of Ukraine. In addition, new tools of warfare stipulated the need to reassess the paradigm of critical infrastructure protection, shifting attention from «protection» to «resilience» (Sukhodolia, 2016).

The Securiry Service of Ukraine (SSU) takes a leading role in implementing the concept of critical infrastructure protection. In accordance with priorities of reforming the security and defense sector of Ukraine, the special department on CIP within SSU was created, whose task is to provide threat identification, intelligence informational exchange and coordination of efforts of government agencies on some aspects of critical infrastructure protection (Sukhodolia, 2017).

Regardless of the relevance of the issue being investigated, there is a limited number of works dedicated to it. Therefore, we will study the available material to propose the ways to optimize current rules on its regulation.

3. METHODOLOGY

The methodological basis of the article is a set of methods of scientific knowledge used to achieve the set research goal. The role of research methodology is that it determines the ways of obtaining scientific knowledge, directs and determines the main path by which a specific scientific research goal is achieved.

In the course of our study the following general and specific methods were used:

Dogmatic method helped to investigate the concept of optimization of legal regulation, and systematic method contributed to the study of its main parameters.

Analytical method was used for identifying, which documents emphasize the need for the development of legal instruments for ensuring state security and set relevant tasks in this sphere.

The content analysis approach was applied when examining the content of legal acts enshrining legal principles of the activities of the Security Service of Ukraine, i.e., in the sphere of protection of critical infrastructure facilities.

With the help of monographic method, the proposals by scholars on the amendments to the legislation in terms of participation of the Security Service of Ukraine in providing critical infrastructure security, were studied.

Logical and normative method made it possible to investigate the Draft Law proposing changes related to the legal regulation of the activities of the Security Service of Ukraine in the sphere of critical infrastructure protection.

Legal modelling method was used when highlighting promising areas of optimizing legal regulation of counteraction to the activities of transnational organized criminal groups to the detriment of critical infrastructure facilities by the Security Service of Ukraine.

4. RESULTS AND DISCUSSION

Optimization is a set of processes aimed at modernizing and improving existing mechanisms for achieving the desired result. Optimization can be applied in almost any field of activity, including the counteraction to the activities of transnational organized criminal groups to the detriment of critical infrastructure facilities by the Security Service of Ukraine.

Optimization of legal regulation involves adoption of new legislation and/or amending the existing one. A number of domestic scientists draw attention to the main parameters of optimizing legal regulation, identifying its main directions and criteria, namely.

- Recognition of human rights as the highest value, formation of the foundations of social, legal statehood and civil society.
- Awareness of the humanistic role of law through the implementation of the fundamental principles of legal policy: stability and predictability, legitimacy and democracy, morality and justice, transparency, combining the interests of the individual and the state, compliance with international standards.
- Increasing the efficiency of public administration, rationalization of the bureaucracy system.
- Improvement of the legal system through constitutional and other legal rules.
- Legal support for the democratization of public life, ongoing reforms, stability and law and order in the country.
- Adequate awareness of the main parameters, purpose and capabilities of law in accordance with the need to implement the legal policy of the transitional period, characterized by instability, variability and contradictions: the search for peaceful, legal ways to resolve various problems and conflicts of social development (Horbatenko, 2017, p. 37).

Currently, the relevance of the issue of optimizing legal regulation of counteraction to the activities of transnational organized criminal groups to the detriment of critical infrastructure facilities by the Security Service of Ukraine is emphasized by the National Security and Defense Council of Ukraine decisions “On improving measures to ensure the protection of critical infrastructure

facilities" (Order No. 8/2017, 2017), "On the National Security Strategy of Ukraine" (Order No. 392/2020, 2020), "On the Strategy for Ensuring State Security" (Order No. 56/2022, 2022), put into effect by the relevant Decrees of the President of Ukraine.

The named documents emphasize the need for the development of legal instruments for ensuring state security and setting relevant tasks in this sphere, in particular, for the Security Service of Ukraine. Another important aspect indicating the relevance of this study is the expected reform of this agency. Therefore, the combination of both of these factors (a change in conceptual views on ensuring state security in conjunction with the expected reform of the Security Service of Ukraine) cannot but affect the current legislation, which, in turn, determines the legal foundations for the operational and service activities of the Security Service of Ukraine.

It should be noted that the current Law of Ukraine "On the Security Service of Ukraine" (Law No. 2229-XII, 1992) does not provide an exhaustive list of regulatory and legal acts determining the legal grounds for the activities of this agency. However, it draws attention to the importance of international legal instruments, recognized by the Ukrainian legislator, for regulating the work of the Security Service of Ukraine. The irreversibility of Ukraine's European and Euro-Atlantic course is confirmed by the Constitution of Ukraine, therefore, the EU and NATO legal acts in the field of combating crime are of great importance for our State.

Such documents as, for example, the Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their Member States (Document 22014A0529(01), 2014), on the other one, do not directly determine the legal basis for the activities of the Security Service of Ukraine. However, their content affects the development of a system of measures to counter the activities of transnational organized criminal groups to the detriment of critical infrastructure facilities, and therefore has indirect, but enhanced regulatory impact on the Security Service operational activities. In particular, the aforementioned Agreement deals with combating money laundering; combating crime and corruption, etc. The Agreement takes into account UN regulations, international conventions and documents and provides for cooperation at the bilateral, regional and international levels. The Agreement refers to the development of a common security and defense policy, developed on the same methodological approaches and principles. Among such principles are the rule of law and respect for human rights and fundamental freedoms. At the same time, in our opinion, taking into account the fact that Ukraine is actively integrating with the EU countries in the energy, telecommunications, transport, digital and other areas, the main part of which belongs to the critical infrastructure sectors, there is an urgent need to expand the content of the Agreement on the areas of interaction between Ukraine and the EU, in particular in the direction of ensuring the security of critical infrastructure facilities.

The legal principles of the activities of the Security Service of Ukraine, defined in the relevant Law No. 2229-XII (1992) have been the subject matter of research by a number of scholars. In particular, Sukhodolia (2017) proposes to amend the articles of this Law in terms of participation of the Security Service of Ukraine in in providing critical infrastructure, which makes up the set of facilities, strategically important for the economy and national security, whose functioning disruption may be detrimental to vital national interests. The scholar proposes to enshrine the obligation of the Security Service of Ukraine to protect critical infrastructure in Article 2 of the Law; to add the words "creation of a functional unit for the protection of critical infrastructure" to Article 10; to include the wording "and such units at critical infrastructure facilities" in Article 11; the formulation "energy, transport, communications, as well as important objects of other sectors of the economy" shall be replaced by "regarding counterintelligence support for "critical infrastructure" in subparagraph 6, Article 24.

In our opinion, these proposals enshrining additional responsibilities of the Security Service of Ukraine in the field of critical infrastructure protection are quite reasonable, especially taking into account the adoption of the Law of Ukraine "On Critical Infrastructure". However, we cannot agree with the proposal to narrow the competence of the Security Service of Ukraine in terms of counterintelligence support exclusively for critical infrastructure, since individual objects may not be included in the register of critical infrastructure facilities, but at the same time be of great importance for the economy and security of the State. Besides, the current state of regulatory and legal support for the activities of the Security Service of Ukraine requires the adoption of a new Law of Ukraine "On the Security Service of Ukraine" (Law No. 2229-XII, 1992) that would adapt the activities of the state security body to modern realities.

The provisions of the Law of Ukraine "On the National Security of Ukraine" (Law No. 2469, 2018) also require optimization of legal regulation within the framework of ensuring the functions of the Security Service of Ukraine in countering transnational organized crime to the detriment of critical infrastructure facilities. The aforementioned Law establishes rules for defining the Security Service of Ukraine as an actor of the security and defense sector; establishes the powers of the President of Ukraine to submit proposals on the appointment and dismissal of the Head of the Security Service of Ukraine to the Verkhovna Rada of Ukraine; specifies the functions and powers of the Security Service of Ukraine, subordination and other features of management and reporting. The importance of this legal lies in determining the place of the Security Service of Ukraine among other subjects of the security and defense sector. It is this Law that specifies the status of the Service. At the same time, in our opinion, Article 19 of the Law needs to be supplemented in terms of expanding the responsibilities of the Security Service of Ukraine, including countering transnational organized crime groups, whose activities pose threats to the functioning of critical infrastructure facilities.

Taking into account the importance of information security in guaranteeing the interests of the State in the area of critical infrastructure protection, it is worth paying attention to the Law of Ukraine "On the Basic Principles of Cybersecurity in Ukraine" (Law No. 2163-VIII, 2017). Thus, Article 8 of the aforementioned Law defines the Security Service of Ukraine as one of the main actors of the national cybersecurity system, as well as lists its tasks and functions for guaranteeing cybersecurity, including: performing counter-intelligence and operational search activities aimed at combating cyberterrorism and cyberespionage, unannounced verification of the readiness of critical infrastructure facilities for possible cyberattacks and cyber incidents; combating cybercrime, the consequences of which may pose a threat to the vital interests of the state; investigating cyber incidents and cyberattacks on state electronic information resources, information protected by law, critical information infrastructure; ensuring response to cyber incidents in the State security area. This Law is aimed at a comprehensive legal solution to the problems caused by a certain type of threats (namely, cyber threats), i.e., resulted from the activities of transnational organized criminal groups. One of the shortcomings of the specified Law, in our opinion, is the lack of legally-defined tasks of the national cybersecurity entities in terms of countering transnational organized criminal groups, which at the present stage are actively using cyberspace to implement their criminal goals.

The importance of the activities of the Security Service of Ukraine in ensuring critical infrastructure security is also reflected in the Law of Ukraine "On Counterintelligence Activities" (Law No. 374-IV, 2002), according to which counterintelligence activities can be carried out on any issues of the activities of transnational organized criminal groups to the detriment of critical infrastructure facilities when performing tasks regarding counterintelligence support of the economic potential of the State, information and analytical support of state authorities (regarding threats to the state security of Ukraine), etc.

Similarly, according to the Law of Ukraine “On Operational and Investigative Activities” (Law No. 2135-XII, 1992), such measures can be performed regarding the activities of transnational organized criminal groups in any area, including to the detriment of critical infrastructure facilities. However, there must be appropriate grounds for conducting operational and investigative activities, which may be contained in applications, reports of citizens, officials, public organizations, mass media, in written instructions and resolutions of the investigator, instructions of the prosecutor, resolutions of the investigating judge, court, materials of law enforcement agencies, requests and reports by law enforcement agencies of other States and international law enforcement organizations, as well as requests of authorized state bodies, institutions and organizations determined by the Cabinet of Ministers of Ukraine, on verification of persons in connection with their access to state secrets, work with nuclear materials and at nuclear facilities”. At the same time, in our opinion, the norms of these laws require significant improvement in terms of a clear distinction between counterintelligence and operational and investigative activities, in particular regarding the grounds for their establishment.

Worthy of attention are the recommendations for amendments to the Laws of Ukraine “On Counterintelligence Activities” and “On Operational and Investigative Activities”, reflected in the Draft Law No. 3196-d (2020), which concerns the improvement of the organizational and legal foundations for the activities of the Security Service of Ukraine. The Verkhovna Rada of Ukraine agreed the text of this bill for second reading, so in our opinion it requires separate study.

Today, the Security Service of Ukraine operates in accordance with the law adopted in 1992; however, unfortunately, in the current conditions of the state’s development, it has long ceased to meet the requirements of the times. In order to bring the current legislation closer to the Western European experience, the question of reforming the Security Service of Ukraine arose.

The explanatory note to the Draft Law No. 3196-d (2020) states that the implementation of its provisions will contribute to the creation of dynamic, highly professional, special service equipped with modern material and technical means, capable of timely identifying and neutralizing threats to state security, effectively protecting state sovereignty, the constitutional order and territorial integrity of Ukraine with strict observance of fundamental human and civil rights and freedoms. The bill proposes changes related to the legal regulation of the activities of the Security Service of Ukraine, in particular.

- Consolidation of the content of concepts characterizing the foundation of state security and its provision.
- Determining the purpose of the Security Service activities, as well as functions and powers that correspond to real and potential threats to the State security of Ukraine.
- Implementing measures to counter real and potential threats to the State security, as well as expansion of the information and analytical field of work of specialized Service.
- Optimization of its structure to enhance timely response to current threats to the State security.
- Implementation of full phasing-out staffing of the Service.

Among the main innovations of the bill are the delimitation of the Security Service competences from other security sector structures, as well as defining new priorities in its work. In order to clearly understand how the new law can change the legal and organizational activities of the Security Service of Ukraine, it is necessary to carefully consider possible changes to the provisions of the current legislation of Ukraine with its adoption. For example, the amendments concern the definition of the category of “operational and investigative activities”, which acquires a narrower meaning. Thus, current version of the Law of Ukraine “On Operational and Investigative Activities” (Law No. 2135-XII, 1992) determines these activities as a system of overt and covert search and counterintelligence measures carried out using operational and operational and technical means. The new version proposes to allocate only search activities in this concept. Thus, according to the Draft Law No. 3196-d (2020), operational and investigative activity is a system of overt and covert search activities carried out using operational and operational and technical means. Special terms and concepts will also be introduced into the Law of Ukraine “On Counterintelligence Activities” (Law No. 374-IV, 2002). Firstly, this concerns the definition of counterintelligence activity. According to the bill, it is a system of counterintelligence, search, regime, administrative and legal, information and analytical measures carried out by a specially authorized state authority in the field of counterintelligence activity, aimed at timely detecting and preventing threats to the State security of Ukraine, neutralizing or minimizing risks to it, countering intelligence and subversive activities, terrorist and other unlawful encroachments by foreign States and their structures, as well as organizations, individual groups and individuals on the State security of Ukraine. It should be noted that the specified activity acquires a broader meaning. According to the current legislation, counterintelligence activity is a special type of activity in the field of ensuring State security, and according to the new wording, it is a system of clearly defined measures that ensuring State security. It is also proposed to add definitions of other terms to Article 1 of the Law No. 374-IV (2002), such as: counterintelligence means; counterintelligence support; counterintelligence measure; counterintelligence operation; counterintelligence interrogation; counterintelligence regime; search measure; counterintelligence forces; intelligence and subversive activities; special information operation. It is also proposed to change the title of Article 5 “The Right to Conduct Counterintelligence Activity” to “Actors of Counterintelligence Activity” and to consolidate the groups of counter-intelligence entities in the following wording.

1) Units of the Central Directorate, regional bodies (Military counterintelligence bodies) of the Security Service of Ukraine are authorized to perform search and counterintelligence measures, the procedure for which is determined by this Law and regulatory legal acts of the Service.

2) The State Security Department of Ukraine may carry out certain counterintelligence measures exclusively in the interests of ensuring the security of its forces and means, information systems and operational records.

3) Units for ensuring internal and own security of the State Border Service of Ukraine and intelligence bodies of Ukraine may carry out certain counterintelligence measures exclusively in the interests of ensuring the security of their forces and means, information systems and operational records.

The changes will also apply to the Law of Ukraine “On the State Secrets” (Law No. 3855-XII, 1994), in particular, Article 23 will be supplemented by Par. 6, according to which the access to state secrets is not granted in case of refusal to pass a counter-intelligence survey in the Security Service of Ukraine. As for the fact that this institution has the exclusive right to conduct cases related to national security, the bill grants this right only to senior officials of the Security Service of Ukraine and the Prosecutor General’s Office, so the number of such cases will be quite limited.

In the context of introducing new risk management methods, assessment of threats to critical infrastructure facilities related to the activities of transnational organized criminal groups, the following provisions deserve specific attention, which define.

- The concept of “state security risk” as a quantitative and/or qualitative measure of the danger arising from the threat to the State security.

- The concept of “state security risk management” – the process of making and ensuring the implementation of management decisions to identify, assess, monitor and control the risks to the State security aimed at their neutralization or minimization.
- Tools for preventive impact on risks to the State security as a recommendation (Mandatory for consideration of proposals related to the matters of ensuring state security, eliminating causes and conditions that may contribute to the realization of threats to state security or increasing them, ways to minimize and/or neutralize the negative consequences of such threats, as well as managing them) and warning (Explain to an individual or legal entity that its actions (Acts or omission) create conditions for the emergence or realization of threats to state security or increase state security risks, and therefore are unacceptable) by the Security Service of Ukraine.

Draft law No. 3196-d (2020) also stresses on strengthening the critical infrastructure protection, especially considering that such functions are part of the tasks of counterintelligence in NATO Member States. In particular, the strategic counterintelligence goals identified in the US National Counterintelligence Strategy (2024) provide for appropriate measures (protection of CI; reduction of threats to key supply chains; countering the exploit of the economy).

Summing up the review of the innovations of the Draft Law No. 3196-d (2020), the following conclusions can be made.

- We support the proposed definition of the concept of “operational and investigative activities”, however, with regard to the concept of “counterintelligence activities”, we believe that it is too involving; and the counterintelligence, search, regime, administrative and legal, information and analytical measures defined in it are inappropriate, since all of the listed measures are types of counterintelligence, directly performed within relevant cases.
- The separation of such terms as counterintelligence and search measures, taking into account the above, is incorrect.
- We fully support the position on not granting access to state secrets in case of citizen’s refusal to undergo a counterintelligence interrogation at the Security Service of Ukraine. Such approach will make it much more difficult for the enemy to conduct operations of infiltration.
- As for the right of initiative to conduct cases regarding national security granted just to senior officials of the Security Service of Ukraine and the Prosecutor General’s Office is not entirely justified, since the sanctioning of such cases can take a significant amount of time, and due to the current state of the operational situation, such decisions are required to be made as soon as possible.
- The proposed definition of the concept of “state security risk” and introduction of such tools for preventive impact on state security risks as warning and recommendation is a signal of implementing a risk-oriented approach in the practice of combating crime, which will allow for a more effective realization of the preventive function by the Security Service of Ukraine.

From the standpoint of strengthening the protection of critical infrastructure facilities, it may also be advisable to improve the provisions of the Order of the Central Directorate of the Security Service of Ukraine “On approval of forms of protection plans for critical infrastructure facilities and recommendations for the development of protection plans” (Order No. 21, 2024) in terms of the expansion of information required to develop a suitable protection plan for critical infrastructure facilities, in particular regarding:

- Participation of critical infrastructure facilities in public procurement.
- Establishing the facts and amounts of VAT reimbursement from the State budget to critical infrastructure facilities.
- Implementation of critical infrastructure facilities for foreign economic activity.
- Information on the objects of movable and immovable property in ownership and use of critical infrastructure facilities.

At the same time, one of the key demands for the start of the reform of the Security Service of Ukraine, voiced by security experts and international partners, was to deprive state security agencies of the functions of investigating economic and corruption crimes. According to the current legislation, this category of cases is not subject to investigation by the Security Service of Ukraine. However, it is now quite common practice for prosecutors and investigators of law enforcement agencies to involve employees of the Security Service of Ukraine in conducting searches, other investigative and surveillance activities in the above cases; the society is mistaken that the case is being investigated by the Security Service of Ukraine. For example, in 2019 alone, the Security Service of Ukraine received about 7 000 instructions from investigators (prosecutors) from other law enforcement agencies. Most of them do not fall within the competence of the Security Service of Ukraine. Thus, we believe that the basis of the Security Service of Ukraine’s counteraction to the activities of transnational organized criminal groups to the detriment of critical infrastructure facilities should be the functions of prevention, detection and cessation of crimes, which should be performed only in terms of transmission of received materials to pre-trial authorities under articles 214, 216 of the Criminal Procedure Code of Ukraine (Law No. 4651-VI, 2013). Their direct investigation should be carried out by law enforcement agencies, to which relevant criminal offenses are attributed, while not abusing the right of the investigator (Prosecutor) to involve operational units of the Security Service of Ukraine in carrying out investigative (Search) actions and covert investigative (search) actions within the framework of the investigation of this category of cases.

One of the ways to solve this problem, in our opinion, is to amend Article 41 of the Criminal Procedure Code of Ukraine “Operational Units” (Law No. 4651-VI, 2013) in terms of defining the right of the investigator, inquirer, prosecutor to provide written instructions only to the operational units of the authority under investigation for a criminal offence.

It is necessary to take into account that the transformation of the Security Service of Ukraine in our country is taking place against the backdrop of the ongoing full-scale invasion of the Russian Federation, with the simultaneous process of reforming the defense industry, the law enforcement system and the need for the continued performance of a number of functions of this body, which no other competent public authority is yet in a position to take over.

In addition, one of the priority areas of state policy should be the implementation of legislative safeguards aimed at identifying and eliminating the causes and conditions that give rise to transnational crime, preventing it from becoming a real threat.

5. CONCLUSIONS

Taking into account the above, we will try to highlight promising areas of optimizing legal regulation of the SSU’s counteraction to the activities of transnational organized criminal groups to the detriment of critical infrastructure facilities, which, in our opinion, must be taken into account when adopting a new law on this institution, in particular.

- Introducing a new conceptual and categorical apparatus, in which the definitions: “transnational organized crime (Activities of transnational organized criminal groups)” and “threats to critical infrastructure facilities” should be defined.
- Ensuring the security of critical infrastructure as one of the SSU main tasks.

- Bringing the status of the Security Service of Ukraine into line with the Law “On the National Security of Ukraine” (Law No. 2469, 2018) by fully implementing the provisions of Article 19 of the aforementioned Law into the Law of Ukraine “On the Security Service of Ukraine” (Law No. 2229-XII, 1992), in particular regarding the definition of the main tasks of the Security Service of Ukraine: countering intelligence and subversive activities against Ukraine; combating terrorism; counterintelligence protection of the State sovereignty, constitutional order and territorial integrity, defense and scientific and technical potential, cybersecurity, information security of the State and critical infrastructure facilities.
- Supplementing Article 19 of the Law “On the National Security of Ukraine” (Law No. 2469, 2018) with the obligation of the Security Service of Ukraine to counter transnational organized criminal groups, whose activities pose threats to the functioning of critical infrastructure facilities.
- Strengthening counter-intelligence and operational search activities by the Security Service of Ukraine and expand its powers to use forces and means against transnational organized criminal groups outside Ukraine, as well as to conduct special information operations and counteract such operations against Ukraine.
- Distinguishing between counterintelligence and operational search activities by the Security Service of Ukraine. In this regard, exclude counterintelligence activities from the Law of Ukraine “On Operational and Investigative Activities” (Law No. 2135-XII, 1992) as a basis for conducting operational and technical measures. Separately define counterintelligence measures, as well as the grounds and procedure for obtaining sanctions for their conduct.
- Introducing preventive response mechanisms to threats to critical infrastructure facilities, such as recommendations and official warnings by the Security Service of Ukraine, which will be mandatory for implementation by the State authorities (in particular, in terms of terminating State contracts, funding for programs that are unprofitable for the State, preventing regulatory authorities from taking certain actions in the interests of third parties, etc.).
- Amending the Order of the Central Directorate of the Security Service of Ukraine No. 21 (2024) in terms of expanding the information necessary for drawing up an appropriate plan for protecting critical infrastructure facilities.
- Amending Article 41 of the Criminal Procedure Code of Ukraine “Operational Units” (Law No. 4651-VI, 2013) in terms of defining the right of an investigator, inquirer, prosecutor to provide written instructions only to the operational units of the body under whose jurisdiction the criminal offense falls.

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